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6 **BEFORE THE VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD**  
7 **OF THE STATE OF CALIFORNIA**  
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9 In the Matter of the Application of:

10 **Jeremy Knittel**  
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**Precedent Decision No. 01 – 06**

12 A hearing on this application was held on August 10, 2001, in Martinez, California, by  
13 Donna D. Ferebee, Hearing Officer, who was assigned to hear this matter by the Executive Officer of the  
14 California Victim Compensation and Government Claims Board (Board).

15 The applicant, Jeremy Knittel, attended the hearing.

16 **Claim History**

17 The application, arising from a battery on June 12, 2000, was received on July 6, 2000; was  
18 recommended for denial on the May 8, 2001, consent calendar; and was timely appealed. The  
19 application requests assistance for medical expenses.

20 **Summary of Issues**

21 Staff recommended the application be denied because staff determined that Mr. Knittel failed  
22 to reasonably cooperate with law enforcement in the apprehension and conviction of the perpetrator.

23 **Findings of Fact**

24 According to the police report, the police responded to a report of a loud verbal and physical  
25 altercation outside the All Star Gas Station store on June 12, 2000. When the police arrived, they  
26 found Mr. Knittel sitting on the ground in front of the store with lacerations to his forehead and cheek,  
27 a bloody nose, and a swelled right eye. The officers noted that Mr. Knittel was conscious but unable to  
28 say what happened. Then Mr. Knittel told police that he had been jumped by several unknown  
29 suspects. The medics arrived to take Mr. Knittel to the hospital, and one of the medics reportedly told

1 police that Mr. Knittel said he had consumed seven beers before the incident occurred. At the hospital,  
2 Mr. Knittel told police that he remembers entering the gas station store to pay for gas, and when he left  
3 the store, he was jumped. According to the report, Mr. Knittel told police that the only person he has a  
4 “beef” with is Adeyemi Collins, but he did not know whether Mr. Collins was his attacker, he stated  
5 that he could not remember very much because he was drunk.

6 The officers on the scene interviewed Mr. Moqsoodi, the store clerk who called the police. Mr.  
7 Moqsoodi reported that he heard Mr. Collins and Mr. Knittel talking to each other, and then he saw  
8 Mr. Collins punch the victim in the face, and could tell that the victim was being kicked while on the  
9 ground. He reported that Mr. Thomas was laughing as Mr. Collins was being attacked, and when it  
10 was over, Mr. Thomas told Mr. Moqsoodi that this would be his last night at work.

11 On June 14, 2000, the police contacted Mr. Knittel for a more detailed statement. Mr. Knittel  
12 told police that he knew Mr. Collins from when they were kids growing up, and that he does not like  
13 him as they have different friends. Mr. Knittel reported that he was hit from behind without any  
14 provocation.

15 According to the report, officers interviewed a witness named Thomas Leon who reported that  
16 he had gone with Mr. Knittel to the gas station but waited outside while Mr. Knittel went into the  
17 store. Mr. Leon reported that while Mr. Knittel was in the store, he recognized Mr. Collins and two or  
18 three other individuals standing outside the store. Mr. Leon stated that he knew Mr. Collins and Mr.  
19 Knittel did not get along, so he went into the store to tell Mr. Knittel that Mr. Collins was outside.  
20 According to Mr. Leon, Mr. Knittel put a beer down that he was about to purchase, and went outside  
21 and confronted Mr. Collins, saying “let’s squash this,” referring to their previous problems. Mr. Leon  
22 reported that Mr. Collins then punched Mr. Knittel who then fell and hit his head. Mr. Leon reported  
23 that the others then stomped on Mr. Knittel’s head and Mr. Collins ordered one of them to steal Mr.  
24 Knittel’s car, which he did.

25 On June 14, 2000, officers interviewed Mr. Collins who reported that he was walking from the  
26 gas station against traffic when a car came up behind him going the wrong way and almost hitting him.  
27 Mr. Collins reported that he followed the car to the gas station and then observed that the driver was  
28 Mr. Knittel. Mr. Collins reported that Mr. Knittel came out of the store and started a verbal altercation  
29 with him and said “I’ll hit anyone I want” and then proceeded to push Mr. Collins. Mr. Collins

1 reported that he then took off his watch because Mr. Knittel wanted to fight. Mr. Collins admitted that  
2 he hit Mr. Knittel, but told police that he never told anyone to steal his car. He also told police that he  
3 tried to help Mr. Knittel up off the ground, but people came out of the store so he walked away.

4 Mr. Collins told police that another witness, Renee Davis, saw the incident, and that she would  
5 be calling to report what she saw. Ms. Davis called the police and reported that she observed a “tall  
6 guy” come out of the store and start yelling at Mr. Collins in his face. She stated that Mr. Collins hit  
7 the tall guy who then tried to hit back but missed. She then left the scene.

8 On June 14, 2000, an officer called Mr. Knittel to ask him further questions, but Mr. Knittel  
9 said, “I’ve been thinking about it. I got my car back and I’m not going to press charges.” The officer  
10 told Mr. Knittel that he still needed to ask him more questions, and Mr. Knittel said, “I’ll think about  
11 it.” The officer then said that he would need Mr. Knittel to sign a medical waiver to go forward with  
12 the investigation, or Mr. Knittel would have to sign a waiver of prosecution. Both forms were mailed  
13 to Mr. Knittel, and both forms were signed by Mr. Knittel and returned to the officer. Mr. Knittel also  
14 left a voice mail with the officer stating that he still did not want a prosecution.

15 At the hearing, Mr. Knittel reviewed the file in detail, including the police report. He testified  
16 that he does not know who hit him, but that he and Mr. Collins had an argument about three years ago  
17 and they belong to different groups of friends that do not get along. Mr. Knittel testified that his  
18 friends associate with the “TMK” (The Mad Kings) gang while Mr. Collins associates with the “BIC”  
19 (Boys in Crime) gang. Mr. Knittel testified that he himself is not a member of a gang.

20 He testified that he could not cooperate with the police because he did not know who hit him.  
21 He testified that the last thing he remembers is being inside the store preparing to purchase cigarettes  
22 and then leaving and being hit from behind. He testified that he did not cooperate with the police  
23 because if the public defender had asked him if he remembers seeing the person who hit him, he would  
24 have to say “no.” He testified that he could not help the police if he wanted to. The Hearing Officer  
25 asked Mr. Knittel if he was willing to assist the police in any way he could, and he responded that if he  
26 could have seen the surveillance tape<sup>1</sup> and who attacked him, he would have cooperated. The Hearing

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29 <sup>1</sup> The police report noted that the store’s surveillance system was not operating properly, and the incident was not recorded on tape.

1 Officer asked Mr. Knittel if he told the police that “he would think about it” when asked for more  
2 information, and Mr. Knittel responded that that was possible, but he does not remember. He testified  
3 that he thinks he had a concussion and was suffering from memory loss. He testified that he was in the  
4 hospital for a few hours.

5 When the Hearing Officer asked Mr. Knittel about Ms. Davis’ statement to the police that she  
6 saw a “tall guy” come out of the store and start yelling at Mr. Collins in his face, Mr. Knittel testified  
7 that that is not what happened. Mr. Knittel also testified that Mr. Leon’s story has changed many  
8 times, and he no longer considers Mr. Leon a friend.

### 9 **Determination of Issues**

10 The Board shall approve an application for assistance if a preponderance of the evidence shows  
11 that as a direct result of a crime the victim incurred an injury that resulted in a pecuniary loss. (Gov.  
12 Code, § 13964(a).)

13 A victim who failed to reasonably cooperate with a law enforcement agency in the  
14 apprehension and conviction of the perpetrator of the qualifying crime may not receive program  
15 assistance. (Gov. Code, § 13964(c)(2).) Conduct that adversely affected the ability to investigate a  
16 qualifying crime may constitute a failure to cooperate with law enforcement. (Cal. Code Regs., tit. 2, §  
17 657.1(f).)<sup>2</sup> A victim may be found to have failed to cooperate with law enforcement even if his failure  
18 to completely and truthfully respond to requests for information in a timely manner did not adversely  
19 affect law enforcement’s ability to investigate the crime. (Reg., § 657.1(h).) A victim’s physical  
20 condition may be considered when assessing whether a victim reasonably cooperated with law  
21 enforcement. (Reg., § 657.1(j)(2).) Completely and truthfully responding to requests for information  
22 in a timely manner is one element of cooperating with law enforcement. (Reg., § 657.1(e)(2).) The  
23 assessment of a victim’s cooperation with law enforcement shall be based on all available evidence.  
24 (Reg., § 657.1(k).)

25 An application may be denied, in whole or in part, if the Board finds that denial is appropriate  
26 because of the nature of the victim’s involvement in the events leading to the crime. (Gov. Code, §  
27 13964(b).) Evidence of a victim’s involvement in the events leading to the qualifying crime obtained by  
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29 <sup>2</sup> All citations to regulations are to California Code of Regulations, title 2.

1 an investigating law enforcement agency may be given significant weight. (Reg., § 656.1(e).) The  
2 Board may consider the following factors when determining whether a victim was involved in the events  
3 leading to the qualifying crime as a result of mutual combat: (1) an implicit or explicit agreement to  
4 fight; (2) a deliberate threat by the victim; (3) the victim's conduct indicated the intent to carry out a  
5 deliberate threat; (4) the victim's deliberate conduct reasonably provoked the other party to initiate a  
6 physical altercation; and (5) the victim initiated a physical altercation that led to the qualifying crime.  
7 (Reg. § 656.4.)

8         The issue raised in the staff recommendation is failure to reasonably cooperate with law  
9 enforcement in the apprehension and conviction of the perpetrator. The police report indicates that  
10 Mr. Knittel refused to provide further information to the investigating officers upon their request, and  
11 that Mr. Knittel signed a waiver of prosecution and left a message with the officer that he does not  
12 want a prosecution. At the hearing, Mr. Knittel confirmed that this is true. Mr. Knittel failed to  
13 provide any believable reason why he would not cooperate; fear that he would not know the answers to  
14 a criminal defense attorney's questions is not a valid reason. Mr. Knittel could have cooperated with  
15 the police by answering all of their questions to the best of his ability, whether or not he saw who hit  
16 him. Instead Mr. Knittel declined to assist the police, and stated that he does not want a prosecution.  
17 Answering law enforcement's questions fully and completely is what Mr. Knittel was obliged to do,  
18 whether or not he had information that could have helped the police. It is law enforcement's job to  
19 determine what information is and is not helpful. Because Mr. Knittel was unwilling to answer all of  
20 law enforcement's questions, and subsequently tendered his waiver of prosecution, the police closed  
21 the case. It is found that Mr. Knittel failed to reasonably cooperate with law enforcement in the  
22 apprehension and prosecution of the perpetrator.

23         It is found that this case is distinguishable from Precedent Decision No. 01-04 (In the Matter  
24 of the Application of Rodney Cotton). In that case, it was found that there was insufficient evidence  
25 that Mr. Cotton failed to cooperate with law enforcement when the police repeatedly questioned Mr.  
26 Cotton while he was in pain and in need of medical attention. It was also found that Mr. Cotton  
27 responded to the officer's questions. In this case, Mr. Knittel declined to answer questions asked of  
28 him two days after the incident, at a time when he was not in the hospital or in need of immediate  
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1 medical treatment. By declining to answer all of law enforcement's questions, Mr. Knittel failed to  
2 reasonably cooperate with law enforcement.

3 A second issue is whether or not Mr. Knittel was involved in the events leading to the  
4 qualifying crime as a result of mutual combat. This issue warrants discussion although the staff  
5 recommendation did not raise it.<sup>3</sup> Although, Mr. Knittel vehemently denies even seeing Mr. Collins,  
6 witness statements contained in the police report clearly indicate that Mr. Knittel had exchanged words  
7 with Mr. Collins prior to the incident. There is in fact evidence that Mr. Knittel instigated the fight. It  
8 is most likely that if Mr. Knittel remembers standing in the store getting ready to purchase cigarettes,  
9 he would remember why he did not make the purchase and instead walked out the door. It is likely  
10 that he knew Mr. Collins was outside and went to confront or at least speak to him. This is mentioned  
11 because it weighs on the overall lack of integrity of Mr. Knittel's testimony. No specific finding is  
12 made as to Mr. Knittel's involvement though, as the finding that Mr. Knittel failed to reasonably  
13 cooperate with law enforcement is a complete bar to his eligibility for program benefits.

#### 14 **Order**

15 The application is denied. Mr. Knittel is not eligible for program assistance.

16  
17 Date: August 31, 2001

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19 DONNA D. FEREBEE  
20 Hearing Officer  
21 California Victim Compensation and  
22 Government Claims Board  
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27 <sup>3</sup> The Hearing Officer informed Mr. Knittel that the facts may give rise to a finding that he was involved in the events  
28 leading to the qualifying crime due to mutual combat, and that such a finding would mean that he may not be eligible for  
29 program assistance. Mr. Knittel indicated that he understood that the Hearing Officer would be considering that potential  
issue.

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**Precedent Decision No. 01 – 06**

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12 On October 19, 2001, the California Victim Compensation and Government Claims Board  
13 adopted the attached Decision as a Precedent Decision in the above-referenced matter. The Decision  
14 became effective on October 19, 2001.  
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16 Date: October 30, 2001

17 JANICE HILL  
18 Acting Chief Counsel  
19 California Victim Compensation and  
20 Government Claims Board  
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